

Government of India
Ministry of Commerce & Industry
Office of the Addl. Director General of Foreign Trade(East Zone)
4, Esplanade East , Kolkata - 700 069.

F. No. 02/21/021/00432/AM'06 / 456, 457 & 458
ORDER-IN-ORIGINAL

Date : 27.08.2015

01-09-2015

1. Any person /party aggrieved by this order , may under Section 15(1)(b) of the Foreign Trade (Development & Regulation) Amendment Act, 2010, file an appeal against the same to the appropriate authority viz. The Addl. Director General of Foreign Trade, Kolkata within 45 days from the date of serving of this Adjudication Order together with a copy of this order and complete set of evidence in the form of annexure to the appeal relied upon in support of the appeal under intimation to this office.

2. Any person/party desirous of filing an appeal against this order shall deposit the penalty amount along with the appeal to the Appellate Authority filing which the appeal is liable to be rejected for non-compliance of the provisions of Section 15(1) of the Foreign Trade (Development & Regulation) Amendment Act, 2010.

3. The penalty amount is to be deposited under the " Heads of Account : 1453 Foreign Trade and Export Promotion Minor Head 102 other receipts and penalties etc" Imports and Exports Control Organization maintained by Central Bank of India, Kolkata.

4. An evidence of payment of penalty or appeal is required to be submitted to the Adjudication Authority within 45 days from the date of serving of this adjudication order, failing which import-export code no. of the persons/companies entities concerned is liable to be suspended as per provision of Section- 11(7) and as well the penalty amount shall be recovered as an arrear of land revenue under the provisions of section-11(5)(d)(1) of Foreign Trade (Development & Regulation) Amendment Act, 2010 as amended without making any further reference to them.

5. The brief fact of the case is that M/s. Sunray Lighting Pvt.Ltd.,161/1,Mahatma Gandhi Road, Room No.57 KOLKATA-700 007,W.B..having IEC No. 0204030340 (hereinafter referred to as "the firm") obtained an EPCG Authorization No.0230001413 dated.24.04.2006 for import of Capital Goods (as a Manufacturer Exporter) for a Duty Saved Value Rs.30,06,550.00 with an Export Obligation of Rs.2,40,52,400.00(US\$-5,41,111.36) to be completed within a Period of 8 years from the date of issue of the License. As per the condition of the license the original Export Obligation within two months from the date of expiry of the said obligation period.

6. And whereas, the firm's export obligation period has expired on 24.04.2014 but the firm could not furnish any export documents. Therefore, a Show Cause Notice was issued to the firm on 09.06.2014 giving them 15 days time for submission of written reply. Since the firm have failed to submit the written reply, Circular for refusal of licence has been issued to them on 22.10.2014 in terms of Section 9(2) of the Foreign Trade(D&R) Act, 1993 read with Rule 7(1)(a) and (K) of Foreign Trade (Regulation) Rules,1993,Incorporate Sec-14 dt. 27.03.2015 , where as the firm is also liable for violation of FT (DR) act.

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7. And whereas, the firm did not respond to the Show Cause Notice and the Refusal Order nor appeared for personal hearing. Therefore, I am constrained to issue this order to that M/s. Sunray Lighting Pvt.Ltd.,161/1,Mahatma Gandhi Road, Room No.57 KOLKATA-700 007,W.B.. and its Director asking him to Show Cause the reason as to why the fiscal penalty should not be imposed under Section 11(2)of the said Act for violation of the conditions of the licence and misuse of imported Capital Good allowed with 'Actual User' condition at concessional rate of Customs Duty. The firm has still not submitted the required documents or any other evidence of having fulfilled the export obligation imposed.

ORDER

8. Therefore, in exercise of the power as vested in me under section-13 of Foreign Trade (Development & Regulation) Amendment Act, 2010 I do hereby impose fiscal penalty Rs.30,00,000/- (Rs. Thirty Lakh only) penalty amount for non-submission of complete documents including realization Certificate in addition to payment of Customs duty and 15% interest p.a. on M/s. Sunray Lighting Pvt.Ltd.,161/1,Mahatma Gandhi Road, Room No.57 KOLKATA-700 007,W.B..and its director under section 11(2) of the said Act. They are collectively and severally made responsible to deposit the said penalty amount.

9. This order is issued without prejudice to any other actions that may be taken against the company under any other Rules/Law in force.


K.M.HARILAL

Dy. Director General of Foreign Trade.
Email: km.harilal@nic.in
Phone No.033-22486831 Ext-909

To

1. M/s. Sunray Lighting Pvt.Ltd.,
161/1,Mahatma Gandhi Road,
Room No.57 KOLKATA-700 007,W.B.

2. Mr. HARISH KUMAR BHUWALKA
161/1,Mahatma Gandhi Road,
Room No.57 KOLKATA-700 007,W.B..

3. *Mr Bobby Bhauwalke*
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Selaqui, Dehradun - 748192